THE HONOURABLE MR JUSTICE K.C.BHANU

WRIT PETITION No.20459 of 2005

Dated: 16.09.2005

Between:

Bethi Kavitha and another

…PETITIONERS

And:

Deputy Registrar,

Karimnagar District Co.op.Central Bank,

Karimnagar and another

…RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the order passed in pursuance of the sale certificate dated 18.07.2005 in E.P.No.548 of 2001-02 on the file of the first respondent, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioners and the learned standing counsel appearing for the respondents.

The learned counsel for the petitioners contended that under Rule 52 (21)(a) of A.P.Cooperative Societies Rules, 1964, when a claim is preferred, the authority should initially dispose of it on merits, and hence he prays to set aside the impugned order. He further contended that the property in question was given to the petitioners towards pasupukumkuma about 10 years back by their parents and the 1st petitioner pledged her property with the 2nd respondent society and took a loan and paying installments regularly, and therefore, it is a bona fide claim, and hence he prays to allow the writ petition.

On the other hand, the learned standing counsel appearing for the respondents contended that against the impugned order, an alternative remedy of appeal is

provided under Section 76 of the A.P.Cooperative Societies Act, 1964 and hence, he aprays to dismiss the writ petition.

The learned standing counsel for the respondents relied on a decision rendered by this Court in ***A.Vemanaidu v.Erracheruvupalle Primary Agrl.Co-op.Society*** wherein it is held:

> "In the result, having regard to Sec.76 of the Act which provides for appeal, of any decision or order under Section 70 of the Act, as there is effective alternative remedy available to the petitioners, these writ petitions cannot be entertained. The petitioners are at liberty to approach the A.P.Co-operative Tribunal, within a period of one week from the date of receipt of a copy of this order. As and when such appeal is filed it shall be open to the learned Tribunal to consider the appeal as well as the interlocutory applications if any under sub-section (6) of Section 76 of the Act on their own merits without in any manner being influenced by any of the observations made herein above."

The jurisdiction of the 1st respondent who issued Form-VI notice for attachment of the properties and sale is not under challenge. Though the claim of the petitioner may be bona fide, but at the same time, the same cannot be decided and determined by this Court. As per the ratio rendered in the aforesaid judgment, an effective alternative remedy of appeal is available to the petitioners under Section 76 of the A.P.Co-operative Societies Act, 1964.

In that view of the matter, I deem it appropriate to dispose of the writ petition, with a direction to the petitioners to file an appeal before the appellate authority against the impugned order, within a period of two weeks from the date of receipt of a copy of this order.

With the above observations, the Writ Petition is disposed of. No order as to costs.

_____

K.C.BHANU,J

Dated: 16.09.2005

Dsr